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THE POLITICS OF AMERICAN BUSINESS

BY SYDNEY BROOKS

A PHENOMENON that always impresses me whenever I have the good fortune to revisit the United States is the sameness of the questions that engage American attention. With few exceptions they are all but identical with the issues and incidents that were forced almost daily upon my notice when I lived in America between 1896 and 1900 and when I returned to it for a few months five years ago. I pick up to-day's paper, for instance, and find that the Mayor of New York has framed what is virtually a new charter. I cannot recall the time when the Mayor of New York was not framing new charters. I read that some judge has resolutely "placed upon the Mayor's shoulders" the responsibility for the present state of the American metropolis; and I remind myself that this is a pastime unfailingly indulged in for the past fifteen years and more, to my own knowledge, by a long succession of members of the New York Bench. A head-line in the New York *Evening Post* informs me that the "Mayor Belittles Crime"; and it knocks a decade and a half off my age to reflect that no Mayor of New York has ever done anything else. There is only the almanac to convince me that I am not back again in the brave days of Dick Croker and the Lexow and Mazet Committees when I read of the "wave of crime" that is inundating New York, of the "corruption and brutality" of the police, of the Sunday liquor problem still unsolved, though less obstreperously insoluble than it was, and of Mr. Frank Moss ferreting out "vice" with the same old efficiency. To be an editorial writer on the staff of a New York newspaper must, I should imagine, be one of the pleasantest and least exacting of positions. All that it apparently demands of a man is the patience to rewrite what he has written a hundred times before with a few small changes of names and dates and

details; to say of Mr. Murphy precisely what has been said of all his predecessors in the autocracy that governs New York under the shadow of the Statue of Liberty; to join once more and for the thousandth time in proving to a wondering world that New York with the best system of transportation of any city on earth is eternally dissatisfied with it; and when the periodic calamity occurs, such as that appalling fire on the East Side a few weeks ago, to participate in the time-honored and always ineffective effort to "fix the responsibility" upon some highly elusive employer, builder, contractor, inspector, or municipal authority.

And this pleasant sense of familiarity, this instantaneous consciousness of the circular movement of events, engendered in a returning Englishman the moment he has set foot on Manhattan Island, is rather strengthened than weakened when he essays what is, perhaps, the most difficult feat for any one living or staying in New York—the feat of looking beyond the Palisades and attempting a bird's-eye view of the vast panorama of American life and politics. The more America changes the more it remains the same; and in spite of all the superficial transformations of the past five years, in spite of a difference in the personality of the President that has something of the sweep of a revolution, and in spite of a political upheaval that for the first time since I have known the United States has placed the Democrats virtually in control of Congress, what most strikes me is that four at least of the most crucial problems that can confront a modern State remain almost as unsettled to-day as they were in the early nineties. Those questions are, first, the currency question, secondly the banking question, thirdly the fiscal question, and fourthly what is compendiously known as the question of the Trusts. Some of these issues stretch back considerably beyond the twenty years or so that I have devoted to the study of American affairs and are indeed all but as old as the Republic itself. But certainly I have never known a moment in the last two decades when one or the other of them was not a matter of passionate debate; and though one is conscious of a certain advance of opinion on all four problems, the broad fact remains that each one of them at this moment is about as far from a rational, final, legislative adjustment as ever. Those who describe the American system of government as a gigantic and ingenious conspiracy for doing nothing can find all the justification they require

in the past history and present state of these four issues. It is, in fact, an amazing paradox that the most commercial-minded country in the world, the country in which business counts for most, should find itself, after all these years of experiment and discussion, saddled with the most childish currency system and the most cramping and antiquated and inadequate banking system on earth; should still be distracted by its efforts to provide a stable fiscal basis for its traders; and should so far have almost wholly failed to establish fixed and reasonable relations between the Constitution and the public interests, on the one hand, and the requirements and developments of modern commerce on the other.

It is no affair of mine; it would, indeed, be an impertinence in me, to attempt to apportion the responsibility for all this and to determine how far American statesmanship and how far American business men and how far the peculiarly negative and inelastic bias of the American governmental system, and how far the quality of the education that is open to the American public in such matters is to blame for a state of affairs that harmonizes so ill with the American reputation for practicality and inventiveness. But the dearth, or at least the extreme scarcity, of all effective progress in the settlement of the four vital problems I have named, and the confusion both mental and political, in which they are still enveloped, are among the most startling surprises that to-day await the returned absentee. It bewilders him when he recalls "the crime of '73," and the Free Silver campaigns and financial panics innumerable to find the United States in 1911 still wandering in the outer mazes of the currency problem; to be told that the objection of the "man in the cars" to the Central Bank which alone offers him an efficient and expansive credit system is almost as insuperable to-day as in Jackson's time; to watch the tariff playing even now its old convulsive rôle in the business and politics of the nation; to be told that the Sherman Anti-trust Act, that relic of the competitive age lasting on into an age of consolidation, is still, as it always was, not a channel to guide, but a dam to obstruct the flow of American commerce; and to see Wall Street, week after week, depressed and demoralized by the strain of waiting for the decisions of the Supreme Court in the Oil and Tobacco suits. All this, as I have said, not by its strangeness, but by its very

familiarity, plunges the intermittent visitor to the United States into sheer amazement. To find so many of the old problems—problems of the deepest concern to the daily interests and welfare of the country—still on the anvil of popular and political discussion, and still nearly as far as ever from being hammered into final shape, brings home to him, as nothing else could, the full magnitude of the contrast between the immensity of America's material progress and the paucity of her achievements in the sphere of constructive thought.

But while it has failed to take due legislative effect, one is none the less conscious of a decided movement of popular opinion during the past two decades on most, if not quite all, the subjects I have mentioned. If the American people are still in a state of indifference or indecision as to the necessity of reforming their banking system from the bottom up and as to the most satisfactory method of so reforming it, and if they appear to have concluded somewhat too easily that the defeat of Bryanism and the adoption of the gold standard meant the end of their currency difficulties they have, on the other hand, pronounced definitely in favor of a lower tariff and on the issue with which at this moment I am more especially concerned—the relations, namely, that should obtain between the quasi-monopolistic corporations and utilities, on the one hand, and the law as the embodiment of public rights and interests on the other—they have lavished an amount of thinking which is certainly remarkable for its quantity if not altogether for its quality. The statute-book shows by comparison but few traces of this vast and feverish agitation of the public mind. The Railway Rate Act of 1906, the Pure-Food Act, the measures directed against the Chicago beef-packers, and the strengthening of the powers of the Interstate Commerce Commission—all these laws, interesting and important as they are, can scarcely be considered commensurate either with the gravity of the general problem or with the degree of attention it has enjoyed for the past twenty years. Roughly speaking, the great industrial combinations of the United States, whether they are railroads or manufacturing concerns or enterprises that furnish some indispensable utility such as the telephone and the telegraph, or insurance companies, are still, so far as their relations with the Federal and State Governments are concerned, in a condition of legal chaos.

The chief and, on the whole, the most fruitful results of the storm of discussion that has raged around them must be sought, indeed, less in legislative enactments than in atmospheric imponderabilia, in the changed temper in which the whole controversy is now conducted, in the humanizing and educational processes which have insensibly affected both parties to the argument, in the growth of sentiments and instinctive attitudes of mind far more powerful than any law.

Any one who surveys the last two decades of American history must have it borne in upon him that the railroads, the "Trusts," and the public-service corporations no longer hold the position they occupied in the early nineties. They were then well-nigh omnipotent; they are to-day severely, in some cases perhaps excessively, regulated in the public interests and by public authority. Unhappily, but possibly inevitably, this change from an almost complete autocracy to a partial subjection has not been brought about by co-operation, but by conflict. Few, very few, of the "corporation magnates" have had the prevision to welcome regulation, to concede its necessity, and to concentrate on the task of converting it into an instrument of reconciliation between themselves and the people. With hardly an exception they have resisted it; it has had to be forced upon them. Still fewer, on the other hand, of the representatives of the people in Congress or in the State Legislatures have addressed themselves to the problem of bringing the "Trusts" under control in any spirit but that of vindictive and unreasoning animosity. They have treated the railroads and the great corporations as though they were public enemies, and they have been far too reluctant to admit the irresistible power of those economic forces which, let the law say what it will, must, under the conditions of modern industry and finance, make consolidation inevitable. The consequences are that almost every step in this controversy has been an act of war; that the statute-book is studded with enactments, like the Sherman Act, so punitive and so little related to present-day tendencies and actualities that it is almost impossible in the United States to carry on business on a large scale and at the same time keep within the law; and that wild empirics and a blind spirit of destructiveness on the one side and resentment and evasion on the other have had far too much to do with a problem that can never be brought even within sight of a satisfactory solution except by good sense, good-

will, and the most candid recognition by the "Trusts" of public rights and by the legislators of economic facts. Nevertheless out of all this turmoil some good has come. The railroads and the corporations have been successfully educated out of their old "damn-the-public" attitude. They have largely abandoned their former policy of secrecy and reserve; they have come to a larger and much more wholesome sense of their obligations to the community; they have made some approach toward recognizing that the enterprises they direct are only to a very limited extent their own, and that the public has the right to claim in them an effective partnership; and I think it may also be said that the standard of corporation morals has appreciably improved, and that practices which twenty years ago were condoned or were indulged in with hardly a consciousness of their essential iniquity are to-day no longer even contemplated. And on the other side there are some pretty evident signs that the "Trust-busting" mania has run its course, that more and more people are coming to perceive that regulation and not annihilation is the goal to aim at, and that regulation to be effective without being oppressive must square with and must no longer attempt to dispute the basic fact that railroad and industrial consolidations, even though they operate "in restraint of trade," are economic necessities of the age. The better business minds of the country are working round to the view that public control is not only inevitable, but may be as beneficial to the corporations as to the public; and the better legislative minds in the same way are within measurable distance of acknowledging the inadequacies and fatuity of laws that by setting themselves athwart the whole movement of modern commerce necessitate prosecutions which "dissolve" great corporations that are promptly reorganized, bring on recurrent periods of business uncertainty and depression, and change the forms of things while leaving their fundamental substance wholly unaffected.

As an example of the advance that has been made and that is still going on toward an understanding between the corporations and the public, the language used in the middle of March by Mr. Theodore Vail in submitting his annual report to the stockholders of the American Telephone and Telegraph Company seems to me highly significant and auspicious. I have come across nothing, not even in the

sane and luminous speeches and articles that one has grown used to expecting from Mr. James J. Hill, that struck me as more indicative of the growing enlightenment of the business world than this report of Mr. Vail's. It is a document such as a dozen years ago no American in his position, no "captain of industry" or "Trust magnate," would or could have penned. The American politician with any sense of the complexities and character of modern commerce is still something of a rarity. The American business man with any gleam in him of real statesmanship is perhaps rarer still. But it is impossible to read Mr. Vail's report without perceiving it to be impregnated with the authentic spirit and vision of the broadest citizenship. For in it the head of one of the greatest corporations in the country accepts without demur the full doctrine of public control, while at the same time announcing his determination to make the enterprise under his management a "universal, interdependent, and intercommunicating" system, "like the highway system of the country, extending from every door to every other door." His frankly avowed aim, in other words, is to bring all the telephone exchanges throughout the country into a single organization, to eliminate competition as competition is ordinarily understood, and to build up a monopoly as wide as the Union. The process of combination, he prophesies, "will continue until all telephone exchanges and lines will be merged either into one company owning and operating the whole system or until a number of companies with territories determined by political, business, or geographical conditions, each performing all functions pertaining to local management and operation, will be closely associated under the control of one central organization exercising all the functions of centralized general administration." But, whatever may be the form of the operating organization, he recognizes that for legal purposes and the holding of franchises there is "bound to be some sort of subordinate State organization which will bring the business and property in each locality under the jurisdiction of the State in which it is situated and operated." All this, he believes, can be accomplished "to the reasonable satisfaction of the public and with its acquiescence, under such control and regulation as will afford the public much better service at less cost than any competition or Government-owned monopoly could permanently afford and at the same time be self-sustaining."

It is hardly necessary at this time of day to point out that the public are far better served and their convenience is far more efficiently promoted when corporations dealing in what may fairly be regarded as necessities of modern life obtain a complete control of the particular utility it is their aim to supply. A city in which half a dozen gas or electric lighting companies had the right to lay their connections through the same streets, in which the transportation system was split up among a number of disjointed and competing corporations, or in which rival telephone exchanges fought for an exclusive business and denied to one another any co-operation of facilities, would be a city that might better be described as a chaos. Apart from the proved impossibility of preserving real competition in such services, it is in every way preferable from the consumers' standpoint, from that of the public authorities, and from that of the corporations themselves that in any given area each public utility should be under a single control. Experience has demonstrated this so often and so completely that I doubt whether Mr. Vail's forecast of a telephone monopoly co-extensive with the Union will cause a single flutter of trepidation or foreboding in the mind of any reasoning man. A reasoning man is infinitely more likely to fix his mind on the problem of how this monopoly, touching, as it does, the daily lives of millions of Americans, is to be regulated and its opportunities, to say nothing of its probable propensities, for extortionate exploitation to be curbed.

It is here that Mr. Vail takes a decided step in advance of what one may describe as the common or Wall Street attitude. So far from opposing public supervision and control he welcomes it. He insists that just as "corporate organizations and combinations have become a permanent part of our business machinery," so public control or regulation of public-service corporations by quasi-judicial commissions has become a permanent part of our political machinery. He admits that the public have a large measure of reason on their side in being unfavorably disposed toward the Trusts and that "public utility corporations and other combinations have too frequently assumed that new laws and regulations were disastrous and ruinous without first giving them a fair trial." At the same time he protests against a wholesale condemnation of all corporations, and points out that legislators have "too often displayed an

ignorance or disregard of existing laws, spreading the idea that new legislation was a cure-all for any undesirable condition while it was often only a political play, and the enforcement of the existing laws was utterly neglected." The consequences of this procedure have been bad, because "while business will adjust itself to any condition if given time and opportunity, sudden change of conditions will result in disaster to some interest, *but not, as a rule, to those at which the change was aimed.*" What Mr. Vail intends to imply in the words I have italicized is in part, apparently, that no one interest can permanently prosper unless all other interests are in a prosperous condition, and in part also that the large corporate combinations, "which often in popular opinion are supposed to be owned or wholly controlled by some one man or some few men," are, in fact, made up of thousands and tens of thousands of silent, scattered, obscure shareholders who are the real owners—though their ownership is often of a too passive and ineffective character—and whose interests are the first to suffer as the result of attacks by the legislatures or the courts. Mr. Vail has no doubts as to the superiority of private over public enterprise. "The combination of the promoter, investor, and capitalist, with their imagination, personality, optimism, and desire," he roundly and rightly declares, "has been at the bottom of every development of every kind or nature which has benefited the human race in the way of utilities and is still the only way in which new utilities can be developed. Whenever any great works have been undertaken by governments they have been on lines of old development, based on experience of that which has been developed by the persistent genius and application of some individual or group of individuals." But while private and personal initiative is the mainspring of progress, it should not on that account be left to work without restrictions. In a formula which, I conceive, both American statesmen and American business men would do well to digest, Mr. Vail declares that "the proper use of corporate organization or combination under proper regulation or control cannot be objected to."

But in what, it will at once be asked, is this "proper regulation or control" to consist? Mr. Vail indicates a clear and justifiable preference for permanent commissions of a quasi-judicial character over any kind of legislative body or committee. These commissions "can and should stop all

abuses of capitalization, of extortion, or of overcharges, of unreasonable division of profits." They should also secure full publicity of accounts, insure to the public good service and fair rates, and to the investor a fair return on his outlay. Coming from a man of Mr. Vail's standing, this seems to me a very important declaration. It amounts to an endorsement of all or nearly all that its warmest advocates have claimed for the commission plan of dealing with public franchises; and there can, I think, be little doubt that it is in the utilization of such commissions to stand between the public authorities, on the one hand, and the corporations on the other, that the United States is destined to lead the world and to make the most valuable of all contributions to the problem of combining private initiative and enterprise with the due protection of public rights. Small, nominated, independent, judicial commissions, empowered to determine when and how and on what terms a franchise should be granted, to supervise the capitalization of the undertaking and inspect its books and plant, to receive complaints from consumers, to satisfy themselves that the quality of the goods supplied reaches a reasonable standard, and to settle differences of opinion between the public authority—whether municipal or State—and the corporation, would go a long way toward removing the disadvantages of corporate control over the public services and toward weakening the attractiveness of the demand for State or municipal or national ownership. It is especially worthy of note that Mr. Vail approves of granting each commission the power to determine whether the nominal capital fairly represents the actual cash invested. In the absence of this provision all other provisions for regulating public-service corporations have been proved to be well-nigh worthless. Nothing, indeed, so far as an outsider can judge, has done more to quicken the movement toward public ownership in the United States than the waterlogged condition of large numbers of the holders of public franchises. The one industrial miracle that is not possible nowadays is for a public-utility corporation to pay dividends on its inflated capitalization and at the same time to meet the constantly increasing demands of public opinion and of the local public authority and to reduce the cost or improve the character of its service.

But while the commissions would thus have ample powers not merely to correct but to prevent practically all the

abuses that now attend the operation of public utilities by private corporations, Mr. Vail would not allow them to have matters too much their own way. The limits of the supervision which they ought to exercise are clearly laid down. It should be, in his judgment, a supervision that would stop short at "controlling" and "regulating" and not encroach upon the sphere of "management" and "operation," except for the purpose of fixing a certain standard of efficiency and economy. "State control or regulation," he says, "should be of such character as to encourage the highest possible standard in plant, the utmost extension of facilities, the highest efficiency in service, rigid economy in operation, and to that end should allow rates that will warrant the highest wages for the best service, some reward for high efficiency in administration, and such certainty of return on investment as will induce investors not only to retain their securities, but to supply at all times all the capital needed to meet the demands of the public, . . . State control of public utilities should not prevent progress, should be sufficiently unrestricting to encourage the introduction and demonstration of the value of any new or novel enterprise, and should allow sufficient reward for the initiative, enterprise, risk and imagination of the adventurers behind such enterprises. It should discriminate between the useful adventurers or promoters, pioneers in fact, and those pirates and sharks who, on the strength of other successes, extravagantly capitalize undeveloped ideas, and exchange the worthless securities for the savings of the deluded and credulous investors. Corporate control and restriction should always exist to a sufficient degree to prevent such speculative promoting and such stockjobbing schemes."

That is a statement of the case so sensible, moderate and direct as to meet, one would think, with universal acceptance. It may, however, be otherwise with Mr. Vail's further stipulation that the corollary to State control must be State protection. Yet sooner or later it will be recognized as both right and inevitable that when a public authority undertakes to supervise a corporation and justifies its action by pleading that competition has broken down, it should frankly and squarely assume the obligation of safeguarding that corporation against aggression from without. In setting out to protect the public it should not forget that it is equally bound to protect the investor. As Mr. Vail says:

“ If there is to be State control and regulation, there should also be State protection—protection to a corporation striving to serve the whole community (some part of whose service must necessarily be unprofitable) from aggressive competition which covers only the part which is profitable. . . . A public utility giving good service at fair rates should not be subject to competition at unfair rates. It is not that all competition should be suppressed, but that all competition should be regulated and controlled. That competition should be suppressed which arises out of the promotion of unnecessary duplication, which gives no additional facilities or service, which is in no sense either extension or improvement, which without initiative or enterprise tries to take advantage of the initiative and enterprise of others by sharing the profitable without assuming any of the burden of the unprofitable parts, or which has only the selfish speculative object of forcing a consolidation or purchase. . . . State control and regulation, to be effective at all, should be of such a character that the results from the operation of any one enterprise would not warrant the expenditure or investment necessary for mere duplication and straight competition. In other words, the profit should not be so large as to warrant duplication of capitalization in the competition for the same business. . . . State control or regulation, to be effective, should, when exercised, be accepted and acquiesced in by the public. If all the decisions not in exact accord with the desire or contention of the public are condemned, if it is expected and required that all decisions be against the utilities concerned, if politics and political effect are to govern decisions, if decisions go for nothing, with, and are not respected by, the public—failure and disappointment are bound to follow, self-respecting men will refuse to act, the standard of appointments will fall, and State control and regulation will become a disgrace, and the evils which it was intended to correct will multiply.”

The more one studies those wise and earnest words the more tempted is one to declare that they go down to the very heart of the whole problem, and that though primarily written in reference to one particular utility they embody principles which cover the entire area of the conflict between the corporations and the community. For the inferences that may fairly be deduced from Mr. Vail's Report and the implications that may fairly be read into it are (1)

that the alternative is not, as it is usually stated to be, between public ownership and private ownership, but between public ownership and a better, an attainably better, system of private ownership than now commonly obtains; (2) that it is only in proportion as they welcome and co-operate with official regulation that corporations in the long run will be able to withstand the movement for their supersession by public ownership; (3) that a system of semi-judicial supervision, such as exists already in Massachusetts and a few other States—a system under which over-capitalization is forestalled, the cost and quality of the services rendered are regulated, and the piling up of unreasonable profits at the expense of the community is prevented—is a system of positive benefit alike to the consumers, the community, and the corporations; (4) that a recognition of the permanence and necessity of industrial combinations should go hand in hand with a recognition of the justice and propriety of Governmental control; and (5) that such control should avoid interference with the detailed problems of administration and management, and should keep always in view the duty of protecting the corporation and its stockholders and through them the community from wasteful and unproductive competition. The sincere acceptance of these principles, none of which is absolutely novel, most of which have been tested by experience, by the politicians, and by Wall Street, would go a long way toward reconciling the two forces that hitherto, greatly to the disadvantage of the country, have been kept, or have kept themselves, apart—the force of the best type of industrial leadership on the one hand, and of the best type of political leadership on the other. If that conjunction were once effected—and the trend of events seems to me to favor it—the difficulty of bringing the Sherman Act into line with modern developments would be over, there would be an end to most of the present talk on the merits and demerits of public ownership, and the infrequent visitor to the United States would no longer have occasion to comment on the rotatory inconclusiveness of American politics in their relation to American business.

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